# HIGHLIGHTS
# OF
# THE MEDICAL REVIEW PANEL REPORT

**Excerpts from the Report presented to the Board of Governors of the Workers' Compensation Board of British Columbia on August 17, 1992**

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## About This Document

This document is an extract from the Medical Review Panel (MRP) Report. It is intended to provide highlights of the full report, and should in no way be interpreted as complete.

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## About the Medical Review Panel Report

The Medical Review Panel Report was commissioned by the Board of Governors of the Workers' Compensation Board to assist them in examining the Medical Review Panel process with the purpose of identifying new approaches to enhancing its efficacy.

It is intended that this report will serve as:

- A public document for information and education on the current administrative, policy and procedural function of the Medical Review Panel process; and
- An identifier of Issues within the process that have led to Recommendations aimed at facilitating and improving the process.

## About the WCB

The Workers' Compensation Board of British Columbia is dedicated to the safety, protection and good health of workers. Through education, regulation, and inspection, the WCB manages safe workplaces and practices; through wage-loss compensation and rehabilitation services, it sustains and rehabilitates workers who are injured or suffer industrial disease in the course of doing their jobs, with the goal of returning them to the workplace; and through counselling and vocational assessment, permanently disabled workers are prepared for changes in lifestyle and employment.

# CHAIRMAN'S PREFACE

August 31, 1992

The decisions and findings flowing from medical questions are only a part of the complex decision making involved in a claim for compensation. Often, however, the medical questions on a claim are the most important and difficult questions to be answered.

The Workers Compensation Act recognizes the significance of medical issues in the adjudication process by providing for a right of appeal to a panel of three physicians independent of the Workers' Compensation Board. This is a deliberate exception to the exclusive authority of the Board to determine all questions of fact and law relating to compensation matters.

An external Medical Review Panel is an inviting recourse when a party is dissatisfied with a decision of the Board or a finding of the Review Board. The Panel may disagree with the treating physician or the opinion of the Board doctor and the Panel's decision is final, conclusive and binding.

The Act intends that the Medical Review Panel process be openly administered and that the Panel members receive the support, education, and training necessary to be competent in their roles. It intends that the Board be as respectful of the authority and competence of Medical Review Panels as the Courts are asked to be in regard to the Board.

In September 1991, the Governors of the Workers' Compensation Board commenced an examination of the Medical Review Panel process. Dr. Leonard C. Jenkins, an independent physician with recognized qualifications, was retained to conduct an independent study. The results of his study, as set out in this report, were presented to the Governors at their August 17, 1992, meeting.

Over the coming months, the Governors will be considering Dr. Jenkins' recommendations for changes in policy and amendments to the Act. In doing so, the Governors will consult with persons interested in the Medical Review Panel process.

At the same time, Dr. Jenkins will be working with the Medical Review Panel Chairmen and the Medical Review Panel Department to implement his administrative recommendations. Included will be recommendations for reducing delays and increasing efficiency of the Medical Review Panel process, improving the education of the Chairmen, Specialist Members and Medical Review Panel Department staff, and instituting a quality assurance program.

I am confident that Dr. Jenkins' report will be a valuable resource for all participants in the workers' compensation system as we search for ways to improve the Medical Review Panel process.

JAMES E. DORSEY
Chairman,
Board of Governors

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# SECTION 1

# MRP REPORT BACKGROUND

# 1.1 FOREWORD

This *Medical Review Panel Report, a Review of the Administrative, Policy and Procedural Function of the Medical Review Panel (MRP) Process, with Identification of Issues and Recommendations*, was undertaken at the request of James E. Dorsey, Chairman, Board of Governors, Workers' Compensation Board of British Columbia (WCB). However, I have been appointed as an independent consulting physician, as the Registrar, Medical Review Panels with a mandate of reviewing the MRP process with particular reference to identification of Issues and making recommendations to improve the system. Although working on a part-time, one-year basis, I have had complete freedom and independence from the WCB in my approach and ability to pursue documents, to interview both in-house and community individuals, groups and representatives. In each instance I have had outstanding reception and cooperation, and enjoyed establishing a good working rapport whenever it was required.

I have indicated in the Report that some Recommendations could easily and quickly be implemented, while others, if accepted by the Governors, would require further negotiation and discussion. I have also indicated that a limited number would require amendments to the Workers Compensation Act.

I have not prioritized the Issues or Recommendations, as I believe that this is the prerogative of the Governors. At an appropriate time, I would be prepared to give my views on this. Nor have I included an analysis of the input or any discussion of the pros and cons of the interviewees' content, as I have endeavored to have their comments digested and reflected, wherever possible, in my statements on the Issues and Recommendations, as they stand in the Report.

I have received excellent consultative advice from Heather Greene, Legal Advisor; Terry Bogyo, Executive Assistant to the Chairman; and Judy Olson, Manager, MRP Department; and strong expert secretarial services from Wilma Chapman, Administrative Assistant to the Chairman, and Secretaries, Sylvia te Boekhorst and Helen Hii.

In the end, the Report is my doing and I accept the responsibility that goes with it for any errors of fact or interpretation that might remain. It remains a report by an independent physician.

L.C.J.
August, 1992

# 1.2 EXECUTIVE SUMMARY

## INTRODUCTION

The Medical Review Panel process evolved out of concern for achieving fair, cost effective, and consistent resolution of difficult complex medical issues involved in occupational injury/disease claims.

It is intended that this report will serve as

- A public document for information and education on the current administrative, policy and procedural function of the Medical Review Panel process; and

- An identifier of Issues within the process that have led to Recommendations aimed at facilitating and improving the process.

The Report's findings are based on a review of the Medical Review Panels' (MRP) processes. Where possible, a statistical analysis has been undertaken, a literature search on related systems has been done, and interviews have been conducted with all Chairmen of the MRP, selected Specialist Members, and 52 representative groups and individuals involved in workers' and employers' interests in the community.

The MRP process is a unique and significant process in the dispute resolution systems in the Workers' Compensation Board of British Columbia. It is the final decision-making process on matters pertaining to the medical questions on the appeal. The decision of the MRP is binding on the Board.

There is an exquisite balance in the relationship of the Medical Review Panel process to the Board. On the one hand, there is a need for independence from the Board. On the other hand, the compilation of data upon which an MRP can make a judgemental decision is dependent upon the Board's resources and personnel. There is a sensitive balance in that relationship which is important to preserve and maintain.

To further the independence of the MRP process and to eliminate any arguments regarding conflicts of interest within the Appeal Division, the Board of Governors made a decision in October 1991 to remove the Medical Review Panel administration from the Appeal Division and made it a separate entity as a Department with its own geographically separate unit. The position of Registrar, Medical Review Panels was created as well as the Managerial Position within the Department. The MRP Department reports to and is responsible to the Chairman of the Board of Governors.

## THE MRP DEPARTMENT

A schematic organization of the Department is found in Figure 1 and the composition of the MRP Department in Table 1. The Medical Review Panel Department administers the Medical Review Panel process.

### Position Descriptions and Mandates of the Registrar Position

There are two basic mandates of the Registrar position. The first is to oversee the administrative side of the Medical Review Panel process and the second is to identify issues in that process and make recommendations in order to facilitate and improve the Medical Review Panel process.

### Manager Position

A managerial position was established when the MRP system was developed into a separate department from the Appeal Division. The Senior Medical Appeals Officer was promoted to this position. The Senior Medical Appeals Officer position has not been replaced in person nor in budget allotment. The managerial position is essential to the administrative overview of the departmental functional phases and personnel. In addition, the position is responsible for the development and operation of the budget, departmental statistics, planning, recruitment and day-to-day operation of the department in general.

There is a close administrative inter-relationship between the Manager and Registrar of the Medical Review Panel.

## THE MEDICAL REVIEW PANEL PROCESS OVERVIEW

A descriptive schematic flowchart of the time/volume flows involved in the Medical Review Panel process are summarized in Figure 3. There are nine stages within the Medical Review Panel administrative, policy, procedural and functional processes. These are:

### Initiating a Medical Review Panel Appeal

The source of applications, the access routes to the Medical Review Panel Appeal, and the applications profile are summarized in Tables 2-4 and Figures 2-4.

### The Physician's Enabling Certificate

The Physician's Enabling Certificate establishes a bona fide medical dispute.

## The Development of the Statement of Foundational Non-medical Facts and Issues by the Medical Appeals Officer

Within this process there are nine issues normally developed and presented to the Panel for decision. Other issues may be added depending on the circumstances of the case.

Issue 1 - Condition of the Appellant
Issue 2 - The Existence of a Disability
Issue 3 - The Nature and the Extent of the Disability
Issue 4, 5 and 6 - Related to the Cause
Issue 7 - Temporary Disability
Issue 8 - Pre-existing Disability or Condition
Issue 9 - Permanent Disability

## The Designation of Specialty

The Registrar assigns a Specialty on the basis of a review of the complete file of the medical factors and the Statement of Foundational Non-Medical Facts and Issues. Tables 8.1 and 8.2 summarize the frequency of the specialties used in the Medical Review Panel process during 1991 and 1992 (from January 1 until June 30).

## The Formation of the Panel: Chairman and Specialists

A Chairman is scheduled for a given panel on the basis of availability by the Panel Scheduling Clerk of the department. Table 9 lists the Medical Review Panel Chairmen and their date of appointment. The choice of one Specialist Member each is made by the employer and worker on the basis of a list of Specialist Members for the given specialty that is circulated to the employer and the worker. The specialties available for MRP Panels are summarized in Table 7. The lists of Specialist Members are found in Appendix 4. Both the worker and employer are asked to make their top three choices in descending order of preference. Every effort is made to respond to the first choice in each instance. There are a number of disqualifying factors for Specialists and Chairman on a given MRP. These factors are summarized in Table 10. The Medical Appeals Officers oversee this, in consultation with the Registrar.

## The Conduct of the MRP

In conducting a Medical Review Panel examination, Section 61 (5) of the Act provides, "the Panel shall determine its own procedure." This means that it is entirely up to the Medical Review Panel to determine how it will conduct its examination of the worker in consideration of the issues. The Board has no authority to issue instructions to Medical Review Panels about the procedure it follows.

Every effort is made by the Chairman and Specialists Members to put the worker at ease during the examination. Emphasis is placed on the fact, during introductory remarks, that the Panel is an independent group of non-biased, non-political physicians trying to objectively examine the facts.

Panels involve the taking of a history and the complete physical examination of the worker. Upon the completion of the examination, the three physicians then discuss their findings. A Certificate is prepared by the Chairman. The Chairman also drafts a Narrative Report and distributes these to the Specialists for their approval. Only two of the three Panel members need agree, but each member of the Panel signs the Certificate and Narrative Report. A dissent opinion may be written. The Certificate, in essence, contains the answers to the questions the Panel was charged with.

### The Certificate

Within a reasonable period of time after the examination of the worker, the Panel is required to certify the results of the examination, for the Board, as set out in Section 61 of the Act.

The Certificate from the Medical Review Panel is conclusive as to the medical matters certified. The Board is bound by it. It is not open to question or review in any court and no proceedings by or before the Panel shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by certiorari or otherwise in any court. (Section 65 of the Act)

### The Narrative Report

The Narrative Report is compiled and prepared by the Chairman of the Medical Review Panel. It accompanies the Medical Review Panel Certificate. It is a detailed document summarizing and focusing on the data provided by the Board with regard to the file information, the detailed findings of the history-taking and physical examination. It will sometimes contain sensitive personal medical information recommending a form of action beneficial to the worker's condition.

## The Medical Review Panel Certificate Implementation

The Certificate of the MRP is returned to the Medical Appeals Officer of the MRP Department, documented, then referred on to the Compensation Services Division, which has been responsible for reviewing Certificates directly since June 3, 1991. It is reviewed at this time by the Claims Adjudicator in consultation with his/her manager to ensure that the Panel has remained within its jurisdiction and that the intent is clear. If the Certificate is within the Panel's jurisdiction and the intent is clear, the issue is resolved decisively.

If there is a need for clarification, the Certificate will be sent to a specialized group reporting to the Vice-President in the Compensation Services Division. In consultation with the Registrar of the Medical Review Panels, the Certificate is reviewed.

Other issues addressed in the Medical Review Panel process overview are as follows:

### The Appointment of Chairmen and Specialist Members of the MRP

The appointment of Chairmen is by Order-in-Council by the Lieutenant-Governor-in-Council. Appointment is without term. There is no established termination process nor guidelines available for this procedure.

In general terms, the Chairmen are seen by their peers as physicians or surgeons who are broadly based in their clinical knowledge, have excellent judgement, are widely experienced clinically and able to express decisions with clarity. Table 9 summarizes the current Medical Review Panel Chairmen and their times of appointment.

The Specialist Members are appointed by a joint medical committee of the College of Physicians and Surgeons of British Columbia, and the BCMA. The composition of this committee is outlined in Table 6.

### Education/Training of Chairmen, Specialist Members, Medical Review Panel Department Staff

There are current orientation guidelines for new Specialist Members.

An initial Chairmen's Education Day was held on May 29, 1992.

### Medical Review Panel Quality Assurance

There is currently no formal quality monitoring process for the performance of Chairmen or Specialist Members of MRP Panels, nor for the members of the MRP Departmental Staff.

The Registrar has reviewed some 300 Medical Review Panel Certificates during the past year, including all the new MRP Certificates arising since September 1, 1991, as to quality of clarity, format and time frame of responding.

### Position of Registrar, Medical Review Panels

This appointment was made on September 1, 1991 for a one-year period.

The Registrar, Medical Review Panels, can play a key pivotal role in interrelating the MRP Department with internal WCB interactions. There is also a significant role for interplay with the community of workers, employers and their representatives. The Registrar has a major role interrelating with the Chairmen of the MRP and facilitating their activity and those of the Specialist Members of the Panel. In essence, the Registrar can form the role of a key gatekeeper with respect to the problems arising from implementation of the Certificate and its development.

### Interaction with Groups and Representatives

Although the Medical Review Panel process is an independent system, it must also be seen to be independent, free of bias and political influence and fair and abiding by the principles of natural justice. However, the process does not function in isolation. There is interaction with significant groups, individuals, and representatives. The feedback and exchange of views are helpful to the process and its final outcome and performance, although, in some instances, they delay the decision or the implementation of the MRP Certificate and will increase the cost associated with the MRP function.

### Amendments to the Act

As a result of the issues raised in the Medical Review Panel process, a number of recommendations have arisen that require considerations for amendments to the Act that are required to Sections 58 - 66.

## PERFORMANCE/OUTCOMES OF THE MEDICAL REVIEW PANEL

Data depicting performance and outcomes of the Medical Review Panels are summarized in Figures 4 and 5 and Tables 2-5, 8.1, 8.2 and 11-15. A review of the performance and outcomes is presented from the following five headings:

### Frequency of Use

Access routes to the MRP process are depicted in Figure 2. Table 2 clearly indicates that a majority of applications to the MRP are currently arising from the Appeal Division decisions and referrals (55%). Other source patterns for new MRP Appeals are from decisions by Board officers (22%), findings by Review Board (14%) and by Bill 15 (Decision 3) (10%).

This increase in MRP appeals is a reflection of a time of transition in the Appeal Division, coping admirably with a reduction of the backlog.

However a continuing increase in appeals could be sustained by the potential activation of backlog reductions arising from the Review Board.

Applications have continued to increase over the past five years (Tables 3, 4, and Figure 4), as have the numbers awaiting consideration. Five hundred applications were received during 1991. This represents a 40% increase over 1990 (Table 3). Four hundred and eighty-five applications are awaiting consideration and being processed as of June 30, 1992.

The specialties that were used in Medical Review Panels in 1991 and January to June 1992 are summarized in Tables 8.1 and 8.2. Orthopaedic surgery is by far the most commonly used specialty (73% of the Panels).

## Satisfaction

The average number of days for the completion of Medical Review Panels has generally decreased, although not consistently, over the past seven years (Table 5). In 1985 the average number of months was 29, while in 1990 it was 7.9 months. During 1991 it was 400 days or 13.1 months (Figure 3) for completion of MRP appeals. The time from the date of application to the implementation of the MRP Certificate has improved.

However, the Issues have identified that further improvements in efficiency of the process are possible. Twenty-seven of the 131 Recommendations in the report deal with the question of reducing delays.

Medical Review Panel Certificates have been consistent on decisions and outcomes of appeals over the past five years (Figure 5 and Tables 12 and 13): 39% of Certificates uphold (confirm) the Board's decision; 51% disagree and 10% partially disagree (uphold). The percentage of Chairmen's Panels that did not confirm Board decisions varied between a low of 30% and a high of 76.92%, over the past five years (Table 14).

With respect to Table 14, the variations in Panel decisions related to the Chairmen might not be as significant as first seen. It is important to remember that the Medical Review Panel as a whole makes the decision, not the Chairman alone. The percentage of Panels that did not confirm Board decisions is therefore not truly a reflection of any given Chairman. Also, the percentages are somewhat skewed by the numbers of panels involved. The Panels under 15 appear at the lower and upper extremes of the percentages.

From the appellant's perspective, there is probably more satisfaction gained from the review of the Certificate than that of the employer or the Board. An important factor for all concerned is that the medical issue is finalized by the MRP process.

No interviewees felt that the MRP process should be discontinued, although I have identified 158 issues within the system.

## Time Phases Through the MRP Process: Possible Delay Factors

Figure 3 depicts the MRP process with respect to volume and time flow patterns during 1991. Sixty percent of the overall time is taken from the time of reception of an application until the MRP examination. Forty percent of the overall time is from the time of the examination to the time of the MRP implementation. Since the Chairmen's Education Day of May 29, 1992, following a discussion of Panel Chairmen performance, on average they took 40 days to return Certificates to the Board from the time of their Panel examination. This time now has fallen to an average of 21 days as of June 30, 1992.

All the time frames indicated in Figure 3 are being analyzed with regard to efficiency. These issues have been addressed in the Recommendations.

### Costs

Table 15 summarizes the 1991 estimated (projected) costs per MRP. On the basis of the MRP Department operating budget alone, this was $2,883 per Panel; on the basis of medical aid – that is, the Chairmen and Specialist Members on the Panel alone – the cost is $2,272 per Panel; on the basis of 500 applications received, the cost is $2,093 per Panel; on the basis of MRP implementations (203), the cost is $5,145 per Panel.

### Features that Contribute to the Success and Failure of the MRP Process

The MRP process is considered a success in B.C. by all parties interviewed. The fact that it is not immune to criticism is apparent from the number of issues that I have been able to identify (158 ).

In order to maintain the system as a success and not let it lose its credibility, it is imperative that vigilance and attention be given to the following areas that would result in an even better process.

- Reduce or eliminate causes of delay.
- Maintain and reinforce the binding nature of the decision.
- Continue to enhance credibility of the Panelists and Chairmen.
- Reduce the number of appeals requiring clarification, interpretation reconvening, or those deemed null and void.

## THE ISSUES

There are 158 Issues raised in this report. The background information for the Issues is presented within the organizational function and flow of the Medical Review Panel process as outlined in the overview.

These issues were developed as a result of my viewing Workers' Compensation Board documents and having a widespread search of the literature, publications and information received from my interviews. This document of issues was circulated to those interviewees and others and a response and comment to these issues were requested of the Chairmen, Medical Review Panels and the 52 other groups, individuals and representatives who received the issues. There was a 65% return rate with many helpful comments and suggestions.

## THE RECOMMENDATIONS

The recommendations basically arise from the answers to the questions that were posed in the Issues. There are 131 recommendations presented for consideration.

A significant number of the recommendations can be implemented easily and relatively quickly. Some, if accepted, will require further discussion and negotiation. A limited number would require amendments to the Act.

# SECTION 2

# AN OVERVIEW OF THE CURRENT MEDICAL REVIEW PANEL PROCESS

# 2.1 THE MEDICAL REVIEW PANEL (MRP) PROCESS

Occupational injury and disease claims are difficult and expensive for workers' compensation systems to resolve. They also raise complex medical issues - diagnosis, causation, the extent of current and future disability, and apportionment between work-related and non work-related causes. The resolution of these cases in a prompt, predictable and fair manner requires the evaluation of specialized technical evidence by the parties and by the adjudicators. Many question the ability of lay decision-makers to accurately evaluate conflicting medical opinions brought before them by parties having differing interests in order to produce fair, consistent decisions.

The Medical Review Panel process evolved out of concern for achieving fair, cost-effective, and consistent resolution of these difficult issues and occupational injury/disease claims.

Although the notion of a medical Panel - a select group of specialists who examine the appellant (worker) and render an opinion on complex medical issues - has substantial appeal on its surface, the public and even the community of physicians know very little about how the Medical Review Panel process operates or that shortfall issues might exist within the process.

It is intended, then, that this report will eventually serve as:

1. A public document for information and education on the current administrative, policy and procedural functions of the Medical Review Panel process; and

2. An identifier of issues within the process that have led to recommendations aimed hopefully at facilitating and improving the process.

The organizational chart of the MRP Department is depicted in Figure 1. The composition of the MRP Department is outlined in Table 1.

## THE SCOPE OF THE REVIEW

The review encompasses the following processes within the MRP system, and provides an overview of the administrative functional aspects of the MRP processes through these nine administrative stages:

1. Initiating a Medical Review Panel
2. The Physician's Enabling Certificate: Establishing a Bona Fide Medical Dispute
3. Statement of Foundational Non-medical Facts and Issues;
4. Designation of Specialty
5. The Scheduling and Formation of the Panel with Chairmen and Specialists
6. The Conduct of the MRP
7. The MRP Certificate
8. The Narrative Report
9. MRP Certificate Implementation.

In addition, the following areas and activities were also reviewed:

1. The Appointment Process of Chairmen
2. The Appointment Process of Specialist Members
3. The Education/Training Aspects of Chairmen, Specialists, MRP Departmental Staff
4. The Conduct of the MRP
5. MRP Quality Assurance
6. The Role of the Registrar, Medical Review Panels
7. Medical Review Panel administrative matters
8. The interplay with groups and representatives within the WCB and the Community
9. Amendments to the Act required to improve the process.

# 2.2 ADMINISTRATIVE, POLICY AND PROCEDURAL FUNCTIONS

## INITIATING A MEDICAL REVIEW PANEL APPEAL

Figure 2 summarizes the access routes to the MRP process. In a dispute over a medical issue, a worker or an employer may appeal a WCB decision to a Medical Review Panel directly or through a progression of the WCB, Review Board and Appeal Division. Appellants must file their request for an MRP review within 90 days of the WCB decision. Most appellants do not apply directly to the Medical Review Panel process. They usually use the route of the Review Board and Appeal Division appeal mechanism first. This may take several years.

Table 2 depicts a summation of the statistical data indicating the source patterns for new MRP applications from these routes. It is significant that more than 55% of the applications for appeals arise from the activity of the Appeal Division, as can be seen from Table 2 and Figure 2. Of this 55%, 48.6% arise from Appeal Division decisions, and 6.6% from referral. The second-largest source is from Board Officers at 21.2%, third, the Review Board at 13.6% and fourth, Bill 15 (Decision 3) at 10%.

Tables 3-5 and Figures 3 and 4 depict further statistical analysis of activity associated with applications for appeal.

## THE PHYSICIAN'S ENABLING CERTIFICATE ESTABLISHING A BONA FIDE MEDICAL DISPUTE

In order to be allowed to appeal a decision to an MRP there must be a bona fide medical dispute. The worker/employer must obtain a Certificate from his or her physician stating that there is a bona fide medical dispute "with sufficient particulars to define the question in issue".

A bona fide medical dispute is a real disagreement on a medical question. In order for a physician's Certificate to be accepted as defining a bona fide medical dispute, a physician must set out exactly in what respect he or she disagrees with the medical decision in dispute.

In order for a Certificate to be accepted it must explain how and why the physician disagrees with the medical decision in dispute, with medical reasons to support the opinion. The opinion must be sufficiently detailed to define the medical issue in dispute.

In essence, the whole reason for a Medical Review Panel examination is to resolve a medical disagreement between the appellant's physician and the Board Appeal Division or the Review Board. The question at issue is strictly medical in nature.

## THE STATEMENT OF FOUNDATIONAL NON-MEDICAL FACTS AND ISSUES

Where an MRP is warranted, a summary of the non-medical facts is prepared and sent with all salient, pertinent medical reports ('split file') to a Chairman of an MRP. A set of nine or 10 questions is given to the MRP with instructions that the Panel limit its response to those issues only. The Panel is absolutely bound by the WCB's non-medical findings in the case, which raises the question of the MRP's jurisdiction.

The term "jurisdiction" refers to "the power of a Court or Judge to entertain an action, petition or other proceedings." A Medical Review Panel has the jurisdiction or authority to make decisions with respect to:

- the condition of the worker;
- the existence or non-existence of a disability;
- if there is a disability, its nature and extent, but not stated in terms of percentage of disability of the whole body;
- if there is a disability, its cause and, if there is more than one cause, how much of the disability is related to one cause and how much to another;
- if the worker, though no longer disabled, claims that he had a longer period of disability, total or partial, than that allowed him by the Board, then and in that event, whether he was in fact disabled as a result of the happening or incident which caused the disability, for a longer period than that allowed him by the Board, and if so, for what longer period he was disabled and the nature and extent of his disability during the period beyond that allowed him by the Board, but not stated in terms of percentage of disability of the whole body.

The Medical Review Panel's jurisdiction is confined to medical issues. The Medical Review Panel has no jurisdiction over questions of lawful entitlement to compensation. The Board has the jurisdiction to determine entitlement to further compensation on the basis of the medical decisions contained in the Medical Review Panel's Certificate.

The Board uses the same basic list of issues in every Medical Review Panel examination modifying each question in accordance with the facts of the particular claim under appeal. A parallel generally exists between the issues and the jurisdiction of the Medical Review Panel as set out in Section 61(1):

<u>Issue #1 Condition</u>:
Section 61(1)(a)

"Condition is the state of being or fitness of a person or thing."

In Issue #1, the Medical Review Panel is asked to certify as to the worker's condition or general fitness.

Issue #2 The Existence of a Disability:
Section 61(1)(b)

Disability is variously defined as:

- a physical incapacity either congenital or caused by injury, disease, etc.;
- a lack of some asset, quality or attribute that prevents one's doing something;
- a lack of ability to function normally, physically or mentally; incapacity;
- anything that causes disability.

Issue #3 The Nature and Extent of Disability:
Section 61(1)(c)

The nature and extent of disability is simply a description of the disability from which the worker suffers. The extent of the disability is a list of the physical limitations which are placed upon the worker by the nature of the disability. The Medical Review Panel has been asked to describe the extent of the disability in terms of how it affects body functions.

Issue #4 to #6 Cause:
Section 61(1)(d)

In Issue #4, the Medical Review Panel is asked to certify as to whether the worker's compensable injury was of "causative significance" in the disability and if so, in what way.

In Issue #5, the Medical Review Panel is asked to certify as to whether the worker's disability was wholly or partly the result of causes other than the compensable injury and if so, how and to what extent each other cause was significant.

In Issue #6, where there are two or more causes of the worker's disability, the Medical Review Panel is asked to certify, as to the role of each cause, whether each cause acted independently or together with some other cause and the proportion of disability that can be attributed to each cause.

It is open to the Medical Review Panel to consider all other possible causes of the worker's disability, including any and all previous work injuries other than the injury that is in direct consideration by the Medical Review Panel.

Issue #7 Temporary Disability:
Section 61(1)(e)

Issue #7 asks the Medical Review Panel whether the worker has been temporarily disabled for any further periods of time beyond those which have already been recognized by the Board. On the basis of the Panel's answer to this question, the Board determines whether the worker is entitled to any further benefits for temporary total or temporary partial disability.

Issue #8 Pre-existing Disability or Condition

In Issue #8, the Panel is asked whether the worker suffered from any pre-existing condition or disability prior to the compensable injury. The question as to whether a pre-existing problem amounted to a "condition" or "disability" is the key to the determination as to whether the Board has any responsibility for that pre-existing problem. The Medical Review Panel is also asked to certify whether the pre-existing problem was activated, accelerated or aggravated by the compensable injury.

Issue #9 Permanent Disability

Benefits for permanent, total disability are paid when a worker is left permanently and totally disabled by a compensable injury as a result of performing any type of work. Some examples of permanent, total disability according to the *Rehabilitation Services & Claims Manual* are paraplegic, quadriplegic and total blindness.

Benefits for permanent partial disability are paid when a worker is left with some degree of permanent, physical impairment as a result of a compensable injury.

Medical Review Panels can be used in fatality claims as well as in disability claims. The sole issue, however, is to determine the cause of death. Only dependents (not employers) may request an MRP and no Certificate is needed indicating that a bona fide medical issue exists. As well, there is no requirement that an appeal for MRP be made within 90 days of the WCB decision.

## THE DESIGNATION OF SPECIALTY

The Panelists are physicians and/or surgeons with specialties relevant to the occupational injury/disease under dispute. (see Table 7). "Specialist" means "a physician residing and practicing in the province and listed by the Royal College of Physicians and Surgeons of Canada as having specialist qualifications" (the Act, Section 1). There are 24 specialties available. (See Table 7.)

The assignment or designation of specialty is made by the Registrar, Medical Review Panels.

Once the specialty has been designated, the worker and employer then each have the opportunity to nominate, in order of preference, three specialists from a list of specialists which have been appointed by the special joint medical committee of the College of Physicians and Surgeons of British Columbia and the BCMA (see Table 6). On the basis of availability, the highest-ranking choices are appointed to the Panel.

The most frequently used specialty is orthopaedics (See Tables 8.1 and 8.2). A distant second is neurology.

The most common medical issue presented to Panels is back injury, with chronic pain.

## THE FORMATION OF THE PANEL: CHAIRMAN AND SPECIALISTS

The Lieutenant-Governor-in-Council appoints physicians to serve as Chairmen of Medical Review Panels. They are, thus, Order-in-Council appointments. Currently, 14 physicians serve in this capacity. Table 9 depicts the Medical Review Panel Chairmen and their dates of appointment. A Panel Chairman is named on the basis of availability and priority of distribution by the scheduling clerk of the Medical Review Panel Department.

When the Board accepts an appeal for an MRP, the Department sends a list of Specialists practicing in the field in which the medical dispute occurs to the worker and to the employer, asking them to choose a Specialist.

The Panel Chairman and the two Specialists then meet the worker. The Medical Appeals Officer has, by then, sent to the Panel Chairman the non-medical findings, all the salient, pertinent medical information and any medical reports contained in the claim file ('split file'). Each member of the Panel physically examines the worker. A medical history is taken as well. The Panel is able to request that other tests be conducted if they believe it to be necessary. They are also free to have additional consultation, if it is felt to be required, from other Specialists.

## THE CONDUCT OF THE MRP

It is entirely up to the Medical Review Panel to determine how it will conduct its examination of the worker and consideration of the issues.

The Medical Review Panel considers all evidence when making a decision:

a) Oral evidence, obtained in the context of a Medical Review Panel examination, would generally be received at the examination of the worker.

b) Written evidence would generally be the worker's claim file. The written evidence would also include the Statement of Foundational Non-Medical Facts. The Statement is prepared by the Board as has been discussed in the foregoing. It begins with the identification of the medical decision that is in dispute and contains the conclusions relating to the non-medical facts and finally the questions on which the Panel decision is needed.

c) Other evidence that might be useful in Medical Review Panel examinations would include X-Rays and other technical results for medical testing.

The Panel may receive and accept the evidence that in its discretion it may think fit and proper and essential to the medical problem to be decided.

The Statement of Non-medical Facts will contain the relevant facts as found by the adjudicator, the Review Board or the Appeal Division. Any non-medical facts that are

necessary for consideration in the medical issue and that have not been expressly found by one of the adjudicating bodies will be determined by the Medical Appeals Officer from the evidence, and when there is not sufficient evidence, he/she will obtain the further evidence required.

Medical issues rarely involve absolutes. It is recognized that medical science cannot always provide definite answers. For this reason, there will be cases where conclusions can only be stated in terms of "probabilities".

The Panel Chairman takes great care in placing the worker at ease. The Chairman clearly indicates that the Panel is an independent body, that it has no bias, and that it will examine the facts in the fairest way possible. Following the history-taking and the physical examination, the three physicians then discuss their findings and a report for the file is prepared by the Chairman. The Chairman drafts a Certificate and distributes it to the Specialists for their approval. Only two of the three Panel members need agree, but each member of the Panel signs the Certificate. The Certificate contains answers to the questions the Panel was charged with. The Chairman also drafts a Narrative Report.

## THE MRP CERTIFICATE

The Certificate, then, is the Medical Review Panel's response to the nine or 10 issues posed by the Board.(See discussion under The Statement of Non-Medical Facts on pages 17-19.)

Within a reasonable period of time after the examination of the worker, the Chairman is required to certify the results of the examination of the Board.

The Certificate of a Medical Review Panel is conclusive as to the matter certified. It is binding on the Board. It is not open to question or review in any court, and no proceedings by or before the Panel shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by certiorari or otherwise in any court.

A most important part of the Medical Review Panel process is the preparation of the Certificate, which contains the Panel's decision.

## THE NARRATIVE REPORT

A Narrative Report is compiled and prepared by the Chairman of the Medical Review Panel to accompany the Medical Review Panel Certificate. The Narrative Report is a detailed document summarizing and focusing on the data provided by the Board, with regard to the file information, the detailed findings of the history-taking and the physical examination. It will sometimes contain sensitive personal medical information recommending a form of action beneficial to the worker's condition.

## MRP CERTIFICATE IMPLEMENTATION

The Certificate of the MRP is returned to the Medical Appeals Officer of the MRP Department, documented and then referred on to the Claims Adjudicators of the Compensation Services Division. It must at that time be reviewed for the possibility the Panel has overstepped its jurisdiction and to ensure that the intent is clear and not ambiguous. If the Certificate is within the Panel's jurisdiction and the intent is clear, the issue is resolved decisively.

If there is a need for clarification, the adjudicator will send the Certificate to a specialized group – the Executive Policy Advisors. In consultation with the MRP Registrar, they advise the Vice-President of Compensation Services Division on the most appropriate action.

# SECTION 3

# MRP REPORT RECOMMENDATIONS

There are some 158 issues raised in the MRP report. The Recommendations are basically answers to the questions that were posed in Issues section of the report.

There are 131 recommendations for consideration. The majority of these could be introduced relatively easily and quickly, while others would require consultation and negotiation. Some of the recommendations would also require amendments to the Act.

## I. INITIATING A MEDICAL REVIEW PANEL APPEAL

### Appellant's Request

1. The criteria for an appellant's request are clearly stated. The Appeal pamphlet clearly outlines the requirements to proceed to a Medical Review Panel. This pamphlet should be enclosed with a Board decision. Also, the instructions the Department provides with the appeal forms to the appellant upon receiving any notice of intent to appeal are clearly stated.

### Time Limits

2. Although the time factors for initiating a Medical Review Panel appeal are relevant, they can, on occasion, be too restrictive. There are extenuating circumstances in which the 90-day time limit under Section 58(3) should be waived.

   The opportunity to establish an appeal in the MRP process should not be lost on a technicality beyond the appellant's control (see also I-3).

3. Guidelines should be developed for extenuating circumstances. The authority for extending time limits should be assigned to the Medical Appeals Officer (MAO). Examples of extenuating circumstances are:
   (i) Worker was informed that his/her representative was handling the matter, only to learn later that the appeal was not forwarded within the time restrictions.
   (ii) Worker was on an extended holiday overseas and returned home to find a Board decision. Although aggrieved by this decision, it was well outside the time requirements to proceed to an appeal to an MRP.
   (iii) Worker was not mentally or physically able to complete the forms, i.e. serious illness, death of a close family member, etc.

   Perhaps the current substantial compliance policy (as set out in item 103.13 of the *Rehabilitation Services & Claims Manual*) should be revised. The revision could make it administratively easier to deal with appeals where only one of the documents has been received within the first 90 days, or if a further Certificate or letter of clarification from the physician is required. One alternative would be to make amendments to Section 58(3)(4), giving the MAOs the authority to allow for a time extension in these cases.

   The authority to grant an extension of time is best exercised by a Medical Appeals Officer (MAO). When reviewing a request for appeal, the MAO ensures that there is a medical question to be resolved and is familiar with the time requirements, etc.

The MAO could request that the appellant provide his/her reasons for the delay, in writing, and allow the other party an opportunity to respond to the request for an extension of time. The MAO could base the decision on the reasons provided. This would allow consistency and avoid unnecessary reviewing of the appeal.

Also, a decision by an MAO to reject a request for an extension of time should be appealable to the Workers' Compensation Review Board.

## Physician's Enabling Certificate Establishing a Bona Fide Medical Dispute

4. A clear, concise definition and guideline statement should specify what constitutes a bona fide medical dispute. This should be incorporated with appropriate instructions and guidelines in Recommendation I-5. This would assist in reducing delays at this stage.

5. The guidelines to physicians on instructions regarding defining a bona fide medical dispute should be updated, specified and clarified in concise, meaningful fashion. (See I-8,13.)

   The Instruction Sheet provided to a physician is a general and informative outline to complete a medical Certificate to support the appellant's appeal. If the physician has not provided sufficient particulars, the MAOs assist the physicians in defining a dispute by explaining the medical decision and what necessary information could be included in a further Certificate or letter of clarification, to meet the requirement to proceed.

6. The Board should be able to reject an Enabling Certificate on the grounds that time has run out (no acceptable extenuating circumstances) and that a medical dispute is not defined.

   The following are examples of when it would be appropriate to reject an Enabling Certificate:

   (i) If the physician has provided the worker's opinion, not his/her own;
   (ii) Where there is a difference of facts - for example, if the physician has referred to facts that are contrary to those that have been accepted by the Board. It should be noted that if the Board accepted the facts as presented by the physician, it might have reached a different medical conclusion and an appeal to a Medical Review Panel might not have been initiated.
   (iii) If the physician's opinion is expressed as a possibility. It must be clearly stated that the physician is of the opinion that it is more than 50% probable. If the Board felt it was probable, Section 99 would have been applied. (See also I-9.)
   (iv) If the physician's Certificate is received at the Board outside of the time requirements allowed under the Act.
   (v) The decision is not a medical decision that may be appealed to a Medical Review Panel.
   (vi) Insufficient particulars have been provided; clarification is required, i.e. physician addressing a medical issue which was not dealt with by the decision-maker, unclear reasoning, etc.

7. Non-physician, health-care givers should not be able to raise an Enabling Certificate, as their medical knowledge would not be broadly based.

8. The criteria for accepting an Enabling Certificate from an out-of-province physician should be the same as for a physician practicing within B.C. If necessary, the Workers Compensation Act should be amended to enable this to occur. The present policy requirement that a party must show or attempt to obtain a Certificate from a B.C. physician should be eliminated.

   A worker should not be penalized for living in another province (or moving to seek gainful employment). Also, a worker may normally reside in another province and only be on a temporary job situation in B.C. when the injury occurs.

   An out-of-province physician should be registered under the Medical Practitioners Act in his/her province (Canada) or the physician should have a standing, in his/her own jurisdiction, analogous to that of a physician registered in B.C.

9. The criteria for the acceptance of a physician's Certificate from an employer should not be different from the criteria for acceptance from a worker.

   The employer's physician could review the medical records and decisions on the worker's file via disclosure records and state his/her opinion in the terms of probability. This would satisfy the requirements of Section 58(3) and would not appear as lenient as Section 58(4) as it now stands. (Bill 50, Freedom of Information/Privacy legislation may impact on employer disclosure.)

   It should be noted that the worker's physician providing a Certificate does not always examine the worker, just the medical records available.

### Administrative Decision-making

10. The major causes for delays are increased volume and complexity of cases, with no increase in personnel. (See also I-11.)

11. Many delays could be eliminated by an increase in MAO positions. There should be two additional positions developed.

    The MAOs are now reviewing the appeals for further medical information, sending out nominations and statements. This was previously done by Appeals Officers. Consequently, it takes a longer period of time for the MAO to deal with the appeal than before. However, it is generally felt that all of the steps currently taken in the process are necessary to provide a quality final and binding Certificate.

    Analysis of all time frames in the process (Figure 3) to determine areas of inefficiency should be undertaken.

12. In the absence of a statutory amendment, the MAO should make the determination as to whether an out-of-province physician's Certificate will be accepted, applying the guidelines as outlined in Recommendations I-4,5,8,13.

13. The MAO should be responsible for deciding whether a bona fide medical dispute has been established (see also Recommendations I-4,5,8 that clarify and state that "the sufficient particulars to define the question in issue" should be established).

    The MAOs review the file initially to determine if a medical decision has been made, and specifically to determine what that decision is. They have received the

necessary training to recognize if the physician has disputed the medical decision on the file.

"Sufficient particulars to define the question in issue" means that the physician has correctly identified the medical decision.

14. The training program for new MAOs should be more formalized. A training manual should be developed by the manager and MAO current staff. Funding and opportunities should be made available for new and updating courses. The Registrar and Manager of the Medical Review Panels should oversee this activity.
Some examples of ongoing education would be:

    The Medical Lecture Series offered through Medical Services Division on a monthly basis
    "Evidence or Fact" – legal training
    Monthly adjudication services training – introducing new policy and procedures, etc.
    Participation in future MRP Chairmen's Education days.

## II. STATEMENT OF FOUNDATIONAL NON-MEDICAL FACTS AND ISSUES

### Non-medical Facts

1. The Medical Review Panel should be bound by the Board's findings of non-medical facts, since an opportunity to dispute these findings was available to the worker and employer or their representatives prior to the non-medical facts being finalized by the MAO for the Panel.

    If a different set of facts had existed, the original decision-maker might have reached a different medical conclusion. If the Panel finds a difference of opinion, it should refer the matter back to the MAO for determination of any questionable, non-medical facts.

    The MAO is in the best position to investigate new facts and reach a decision. It is current practice to investigate new evidence and determine facts in the preparation of the Statement. In some cases this involves sending the file back to the Compensation Services Division for clarification, etc. The normal appeal rights would apply to the MAO's determination.

2. In the event that "new non-medical facts" or "disputed non-medical facts" emerge during the examination (history-taking/physical examination) by the Panel, the Chairman of the Panel should consult with the MAO on the case and the Registrar in order to review and resolve the issue.

    Any "disputed" facts should be resolved prior to the Panel examination. All parties should have the opportunity to respond to the Statement and resolve any disputes before the Panel examination takes place. The Panel should base its conclusions on the facts as presented in the Statement. If the Panel questions the facts, it should refer the matter back to the MAO. If a dispute is not resolved regarding the facts, the MAO's decision is appealable to the Review Board.

3. The MAO should be responsible for reviewing the file to obtain any additional medical records that might be relevant to the decision in dispute and are not found on the claim file.

   The MAO has reviewed and is familiar with the entire claim file while preparing the Statement of Foundational Non-medical Facts and is familiar with the general medical history. The MAO is thus aware that, for example, a worker has been seen by a physician for a longer period than shown on the claim file, which usually occurs between the time benefits were terminated and an appeal process is initiated and finalized. However, the review process is time-consuming, resulting in a reduced number of appeals being handled by the MAO.

4. It is acceptable that the Panel Chairman continue to be provided with the "split file".

   A "split file" contains all relevant documents for the Panel's review. To provide the whole file in every case would result in unnecessary paper mass and irrelevant correspondence that does not affect the medical issue before the Panel and would delay the Panel's review of the matter. The MAO may deem that other information is relevant and forward this to the Panel. Of course, the Panel should be able to request the whole file, if felt necessary. Some information not sent to the Panel could or may be considered an opportunity to pre-judge.

   Particular care must be taken with respect to claims on which a previous Panel's Certificate has been declared null and void. In such cases, the documents sent to the new Panel must be closely scrutinized to ensure that they do not provide an opportunity for a real apprehension of bias.

5. In order to focus on the facts and issues in an accurate, efficient, organized, and consistent manner, it is necessary for the Board to continue to prepare a Statement of Foundational Non-medical Facts/Issues in every case. It provides a non-medical background and gives the Panel an outline of the facts that led to the issue being appealed.

## Issues

6. The guidelines for preparation of the issues should continue as currently prepared, as they are adequate (see also Section 61 of the Act). They should be reviewed, however, for more flexibility. It should be stated more clearly in the Act that there is authority to ask these questions.

7. For purposes of focus, organization, accuracy and efficiency, the Board should continue to prepare a Statement of Issues in every case. The standard questions should be asked in every case and fairly reflect the issues by being more specific and relevant to the issues raised. (See also II-5.)

   There are times when a Panel exceeds its jurisdiction. This is infrequent, but could increase if no questions were posed. If a Statement was not prepared, this would cause numerous problems in implementing the Panel Certificate (i.e. where the Panel certifies non-medical issues). Also, there may be a substantial increase in the number of clarification requests and perhaps more null and void Panel Certificates, requiring a second Panel.

   Currently, the questions posed cover all situations and leave no doubt as to the medical question to be determined by the Panel. Section 61(1) could be amended to

specifically add the authority to enquire about "pre-existing condition and/or disability".

8. There should be a review, with appropriate protection of the worker's entitlement to compensation, with respect to decisions under Section 39(1)(e) (Manual #103.11 F). This would allow the Board to relieve employers of the costs of a claim where a portion of the disability has resulted from an enhancement produced by a pre-existing disease, condition or disability.

## III. DESIGNATION OF SPECIALTY

1. The Registrar should continue to designate the specialty of the MRP, as long as the Registrar is a physician. The worker and employer should continue to have the choice of the Specialists on the Panel but should not be involved in the designation process. This process requires a significant medical judgement assessment of the entire file of the case. The appeal opportunities on this designation should remain. There should be a short biographical note available on every Specialist in order that a worker or employer or the representatives might have some background of the Specialists available, if they wish.

2. In the event that the issues in dispute do not clearly lie in one specialty only, there should be "dual" Panels held where expertise in the different specialties might be required, coordinated by the same Chairman. The Panel should be encouraged to seek any additional appropriate consultation from experts in the field if they so wish. (See also Recommendation IX-3.)

3. As soon as the province of British Columbia has adequate numbers of Royal College Certified Occupational Health Specialists, the joint medical committee should useful particularly for claims for repetitive strain injuries, exposure to toxic substances or other injuries with disabilities that fall under this heading.

4. Medical Review Panels should be encouraged to make more use of outside resources and consult with Specialists in other areas of medicine or other non-medical fields, such as psychologists and epidemiologists. (See also Recommendation V-6.)

5. There should be a review of a number of special common medical syndromes such as Chronic Pain Syndrome (CPS), post traumatic stress and psychogenic stress post-trauma, as they relate to the MRP process. Particular reference should be made to appropriate designated Specialists and coordination of a common ground and medical knowledge (see also Recommendation III-6). In the context of the MRP process, the Registrar, MRP should act as coordinator of this type of activity and information distribution.

6. There is a need for a common information and knowledge base for chronic pain, chronic pain syndrome and post-traumatic psychogenic stress. A physician document should be developed that would assist in mutual decision-making for the MRP, the WCB, the worker, the employer and the representative. The Registrar, MRP, should

act as a coordinator and be responsible for the updating of such an information base. (See also Recommendation III-5.)

## IV. APPOINTMENT OF CHAIRMEN, MRP

1. In keeping with current trends and terminology, the term should be changed to Chair.

2. The appointment of Chairmen should continue to be made by the Lieutenant-Governor-in-Council (Order-in-Council appointment). It is important to maintain the independent, non-political nature of the appointment. There is a quasi-judicial aspect to the appointment. This arrangement carries the connotation of a special status, which is appropriate. The Lieutenant-Governor-in-Council should consult with the Board of Governors prior to making appointments. The Board of Governors should consult with the Joint Medical Committee prior to giving their advice.

3. The combined special medical committee of the College of Physicians and Surgeons of B.C. and the British Columbia Medical Association (BCMA), which currently creates lists of Specialists, should continue to be the recommended committee on Specialist Members (see also V). [Note that the Act only refers to a "Medical Committee" (S. 58(2)) in relation to the Specialists.] Consideration should be given to the Dean of the Faculty of Medicine of the University of British Columbia (or designate), to be included as a member of the special committee. (See also V - Appointment of Specialist Members, MRP.)

4. Currently, appointments of Chairmen are without term. Chairmen should be appointed for a five-year term, renewable and subject to review. Criteria for re-appointment should be developed by the Registrar and approved by the Board of Governors, Joint Medical Committee and Chairmen, MRP, prior to final approval by the Lieutenant-Governor-in-Council.

5. There should be a termination process for Chairmen, MRP. Guidelines for this procedure should be developed by the Registrar, MRP and supported and approved by the Joint Medical Committee, Chairmen, MRP and the Board of Governors, prior to final approval by the Lieutenant-Governor-in-Council.

6. A formal, stated list of qualifications should be made available for a Chairman's position by the Joint Medical Committee. In addition, a job description, guidelines of duties and functions should be clearly stated by the Joint Medical Committee and made available to the Registrar and Chairmen for their input and approval. The Registrar, MRP would coordinate and recommend the statement to the Board of Governors for final approval.

7. Specific educational programs should be developed for new appointments and continuing appointments to include a curriculum of subjects that would be covered. This should be developed by the Registrar in consultation with the Chairmen. This process has begun.

8. Activities such as conduct of Panels, drafting of Certificates and Narratives should be monitored for quality on as objective a basis as possible, built upon criteria developed by the Registrar, in consultation with the Chairmen. The intent and objectives are for facilitation and improvement, not legislation.

9. The community should be kept informed about the process of appointing Chairmen and be assured as to the fairness of this process with regard to securing the best possible physicians without bias. Consideration of region/gender should be part of this process.

10. Panel Chairmen should be required to have some knowledge of occupational medicine or industrial worksites, but not necessarily have the specialty certification in this specialty.

11. A process should be established for receiving complaints with respect to Medical Review Panel Chairmen. For example, complaints from Specialists with respect to certain Panel Chairmen or complaints from workers with respect to their examinations by a certain Medical Review Panel (see also V – Appointments of Specialist Members, IX – MRP Conduct and X – Quality Assurance Programs). This information would be confidentially coordinated by the Registrar, MRP. A special Quality Assurance Committee of three Chairmen (chosen by the Chairmen themselves) would be advisory to the Registrar, who would chair this committee.

12. Any of the currently appointed Chairmen should be able to serve as an acting Chairman when a Chairman is unable to continue to act in a particular case e.g. death of a Chairman. This would require an amendment to Section 58(1) of the Act.

## V. APPOINTMENT OF SPECIALIST MEMBERS, MRP

1. The current practice of the appointment of Specialists to the MRP list by the Joint Medical Committee of the College of Physicians and Surgeons of B.C. and the BCMA (s. 58(2)) is appropriate to continue. The committee should be expanded to include the Dean of the Faculty of Medicine, University of British Columbia or designate. The committee should be receptive to recommendations from the Chairmen, coordinated by the Registrar, MRP. (See also Recommendation V-2.)

2. The current practice of the "medical committee members" being selected by the nature of their position is satisfactory. This committee is thus composed of the Registrar, College of Physicians and Surgeons of B.C., the Executive Director of the BCMA, and the Assistant Executive Director of the BCMA (who acts as Chairman). The committee should be expanded to include the Dean of the Faculty of Medicine (or designate) and to include a member at large, both from the College and the BCMA.

3. There needs to be a constant updating of the list of available Specialist Members for the MRP. The number of selected Specialist Members in a given specialty is not always adequate. Constant updating would reduce any delays due to scheduling of available Specialists.

4. The guidelines and criteria used by the Joint Medical Committee for the selection of Specialists for the MRP list should be more formalized and made public to the medical community and community at large.

5. Physicians and surgeons in B.C. should be adequately notified of the opportunity to become a Specialist Member of the MRP. (See also Recommendations V-1,3.)

6. Non-physician health-care givers should not be appointed to Panels. Their medical base of knowledge would be too limited for the medical issues that present to MRP. However, appropriate consultation should be encouraged. (See also III-4.)

7. The current list of disqualifications (see Table 10) for Specialist Members serving on a given Panel is adequate. Other disqualifications should be included as they become apparent from experience. This list should be continually updated. For example, the current list of disqualifications for Specialist Members should include a preclusion for those Specialists who have previously served on a prior MRP involving the worker. Also, a preclusion may be necessary for Specialists who are related to physicians who have previously treated the worker. A Certificate has recently been declared null and void as a result of this relationship.

8. The MAO should make the nomination of a Specialist on behalf of the Board when the worker is self-employed, a partner or member of the firm that is the employer, or where the employer has closed its business in the industry in which the injury or disability occurred. (The Board is to nominate the Specialist as if it were the employer under Section 59(2).)

   The MAO should nominate on behalf of the Board as he/she is more aware of the disqualifications, availability on mutually agreeable dates (with the other nominated Specialist), etc.

9. It is appropriate for the Minister of Labour to nominate on behalf of the worker or employer if there is a failure to nominate a Specialist Member within the eight-day period after receiving notice. But an eight-day period is too restrictive with respect to nominating the Specialists. Perhaps a 21-day period would be more appropriate. (See also Section 4.3 - Amendments to the Act)

10. Delays in the process have been identified due to Specialists' unavailability. The specialties in which this occurs should be identified on an ongoing basis and in consultation with the medical committee, and rectified as soon as possible by additional Specialists being named. The Registrar should be responsible for seeing that this is done. (See also Recommendation V-9.)

11. The Specialist lists should be updated on a regular basis (see also Recommendation V-10). The medical committee should meet on a regular basis and maintain the listing of specialty members at an adequate level, as advised by the Registrar.

## VI. EDUCATION/TRAINING OF CHAIRMEN, SPECIALIST MEMBERS AND MRP DEPARTMENT STAFF

1. Current orientation for new Chairmen and Specialist members is not entirely adequate (see also V – Appointments). This should be updated and expanded in an appropriate manner. The Registrar should be responsible for developing and coordinating this in consultation with the Chairmen.

2. The WCB should continually improve continuing education and training for MRP Chairmen and Panel Specialist Members, making available to them information regarding relevant compensation issues, terminology, role, jurisdiction of MRPs and any relevant issues. The Registrar should coordinate this.

3. Educational and procedural sessions for Chairmen and relevant Specialist Members should be combined. Other interested parties should be invited, e.g. MRP Department members, legal counsel, Compensation Services personnel.

4. There should be funding support to Chairmen, Specialist Members and MRP Department staff for attendance at training/educational sessions. This should be a recognized budget item for the MRP Department. (See also XIV-1.)

5. There should be a process for bringing together, from time to time, the MRP Chairmen to discuss common issues. This should be done at least every six months. Staff members of the MRP Department should attend these sessions.

6. There should be a process for advising the MRP Chairmen as to the implementation results of their own Panel and of the examinations of other MRPs. The Chairmen should be kept generally informed of the decisions of other Panels. This should be coordinated by and be the responsibility of the Registrar, MRP.

7. The MRP Chairmen should be provided with copies of Court decisions and Appeal Division decisions issued with respect to the MRP process on an ongoing basis.

## VII. MRP CERTIFICATE

1. There should be guidelines for a format of the MRP Certificate. They should be developed by the Registrar in consultation with the Chairmen, MRP. It is important that these be seen as facilitatory, rather than legislative.

2. There should be monitoring of the quality of the Certificate. Guidelines as to an acceptable standard should be developed by the Registrar, in consultation with the Chairmen. (See also X.)

3. As part of the MRP Certificate, reasons should be given for the decision. The reasons should be stated clearly and concisely and be included in the Certificate and not in the narrative, as the Certificate is the binding document. (See also Recommendation VIII-4.)

The reasons should be separated from the conclusions (answers to the issues raised) in the Certificate and appear at the end of the Issues #1 to #10. The reasons would not be binding under Sec. 65.

4. There should be suggested time limits, as a guideline only, for Panels issuing Certificates. A six-week time limit would seem reasonable.

5. Ideally, the need for clarification of Certificates should be eliminated by an improvement in the quality of a Certificate, e.g. no ambiguity, no contradictions, no inconsistencies, not beyond the Panel's jurisdiction, no errors made, and no new consideration of new non-medical factual evidence (See also Recommendations VII-1,2,3,6,11,12 .)
   Processes for managing a need for clarification and reconvening should be developed. They are currently in transition. There should be criteria and guidelines as to when clarification should be sought (See also Recommendation VII-6.)
   New issues, but in continuance and incidental to the related issues – i.e., consequential matters – should be included in this process.

6. Problems with the Board's adjudicator interpretation and implementation of Certificates should be referred to a specialized process within the Compensation Services Division. Any resultant request for Panel clarification, reconsideration, reconvening or a null and void ruling would be referred back to the Registrar, prior to going to any given Panel (see also Recommendations VII-5,12).
   There should be statutory provisions for this recommendation.

7. There should be no differences in process (see also Recommendation VII-6), between the adjudicator requiring clarification to implement the Certificate and afterwards, when an external party asks for clarification because they dispute the implementation.

8. Feedback (for example to MRP, WCB Medical Services) should be more effective than is currently the case. Feedback should incorporate how each Certificate has been "interpreted" and "implemented". Feedback should be relevant to the area receiving the information. The feedback may, for example, be different for the MRP and for the WCB Medical Services.

9. The Board should continue to have the authority to declare a Certificate "null and void" – to declare a Certificate beyond the jurisdiction of the Panel. The criteria to do so are basically that the Panel Certificate has erred or gone beyond its jurisdiction/authority. It would be beneficial to have legal representation available to the Registrar and MAOs to review these matters.

10. The current distribution (to the worker, employer, and enabling physician) of the Certificate is adequate.
    Findings sent to the employer should be clearly marked "confidential". Many large firms have mailrooms where the mail is opened and sorted prior to the department distribution.

11. Criteria for requesting reconvening of an MRP should be published (see also Recommendation 5). If the criteria are met, but the MRP cannot be reconvened

because of the death of a Chairman or Specialist Member of the Panel, a new Panel should be constituted.

12. If new evidence arises after an MRP Certificate has been issued, the Panel should reconvene. Criteria of what constitutes "new evidence" should be clearly defined. Background information to the subject of evidence may be found helpful in Section 2.1 – Administrative, Policy and Procedural Functions. The special process outlined in Recommendations VII-5,6 determines whether the new evidence is valid or not in association with the review by the Medical Appeals Officer and the Registrar, MRP.

    Under 103.58 of the *Manual*, an MRP can reconvene or a new Panel be formed if new evidence is received that shows a fundamental medical mistake has been made. A new Panel would not be recommended simply on the basis of a new medical opinion.

13. New evidence should impact on the binding nature of the Certificate only if the Panel alters or modifies its decision as a result of the "new evidence factor".

14. An MRP Certificate should not be referred back to the Panel for clarification before a claims decision is made when the Certificate is disputed by the appellant's physician. The Certificate is not open to question or review.

15. With respect to how long an MRP Certificate is valid, MRP Certificates are a final decision for that given medical issue under dispute and thus remain valid indefinitely unless new evidence persuades the Panel differently. If new issues arise, then a new Panel should be constituted and that becomes the basis for a new Certificate. It does not necessarily invalidate the previous Certificate, but it may have an impact on it. (see also Recommendation VII-13)

    Section 65 of the Act states, "A Certificate of a Panel is conclusive as to the matters certified and is binding on the Board. The Certificate is not open to question or review in any court, and no proceedings by or before the Panel shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by certiorari or otherwise in any court."

    The validity of a Certificate is timeless. Any subsequent decision of the Board, at any point in time, must be consistent with the Certificate.

16. The Chairmen/Registrar, MRP should have access to independent legal counsel when it is felt that the Board is usurping jurisdiction of the Panel or when there is disagreement with the Board in matters of Law.

## VIII. MRP NARRATIVE REPORT

1. The purpose of the Narrative Report should be more clearly defined. Guidelines for the format of the Narrative should be developed by the Registrar, in consultation with the Chairmen, in order to ensure consistency and completeness. It is important that this guidance be seen not as legislation, but as facilitation.

2. Procedures for clarification of contradictions with the Certificate should follow the process outlined in Recommendation VII-5,6.

3. The Narrative Report should be required in association with the Certificate. The Act does not specify that a Narrative Report is legally binding. In fact, the Act does not state that a Narrative Report is required from the Panel.

4. The Narrative Report should not be used to provide the reasons for the Panel's decision. The reasons should be included in the Certificate, as it is the binding document (see also Recommendation VII-3).

5. The Narrative Report should not include an explanation as to why the Panel disagrees with the conclusions of other doctors who have provided opinions on the claim. The inclusion of reasons for the decision, as recommended in VII-3 and VIII-4, would provide these other doctors with feedback as to why the Panel has disagreed with their medical conclusions.

6. There should be continued discretion in distribution of the Narrative Report in view of possible personal and sensitive medical information being present in the report. Compliance with Bill 50 – Freedom of Information and Protection of Privacy Act should be undertaken.

## IX. MRP CONDUCT

1. There should be guidelines for the Chairmen and Specialist Members as to the format of procedures involved in the conduct of an MRP. These guidelines should also be published in the form of a public brochure (perhaps with modification) so that the appellant may have a prior understanding of the examination process. The Registrar should develop this in consultation with the Chairmen and Specialist Members.

2. The Chairmen should be made aware of colleagues' procedures. This process began during the Chairman's Education Day, May 29, 1992. It should be ongoing.

3. The Chairman of an MRP, in consultation with the Registrar, should be able to recommend to the Registrar that a second Panel is required, as an alternative to seeking an opinion from a Specialist in another field (see also Recommendation III-2). The same Chairman should coordinate the two Panels.

4. Representatives and other individuals should be allowed at MRP proceedings under certain circumstances, particularly when an interpreter is required or in the event that the MRP is being held on a fatality issue. Written submissions to the Panel should be encouraged, if necessary. Copies should be sent to the worker and employer, preferably prior to the Panel being held. A representative would not stay during the physical examination of the appellant.

5. The College of Physicians and Surgeons of British Columbia should settle impropriety matters, in consultation with the Registrar.

6. Under appropriate circumstances, the Panel should have the opportunity to further investigate a claim. The Panel might wish to visit the worksite to familiarize itself

with the worker's activity in question if it considers this necessary, keeping in mind that there is a distinction between "finders of fact" and "finders of medical fact" and that the Panel is bound by the Foundational Statement of Non-medical Facts, pages 17-19.

7. The Panel cannot accept the evidence of the worker where it is different than that contained in the Statement of Foundational Non-medical Facts, (see also Recommendation II-1,3). However, this should not apply to medical facts ascertained in the history taken during the Panel examination. However, if there is any doubt, the Panel Chairman should contact the MAO to discuss.

8. Recent statistical data has identified duration of time (in days) for each phase of the Medical Review Panel process (see Figure 3 and Recommendations 8.1 to 8.8). An analysis should be conducted of the areas listed below to identify the factors that may contribute to delay and improve the efficiency of the process.

    8.1 Determining whether the statutory requirements for an appeal – for example, time limits, bona fide medical dispute, etc. – have been complied with.

    8.2 Preparing the file to go to the Panels.

    8.3 Scheduling the examination.

    8.4 Arranging for diagnostic tests, consultations, etc.

    8.5 Examining the worker and discussing the findings of the appellant.

    8.6 Drafting the Certificate and Narrative Report and reaching final agreement on the issues.

    8.7 Board follow-up questions to the Panel on clarifications.

    8.8 Dispute by the worker, employer or representative with respect to the interpretation and implementation of the Certificate.

## X. MRP QUALITY ASSURANCE

1. There should be a quality monitoring process for performance of Chairmen and Specialist Members.

2. It should take the form of a set of standards expected of the Chairmen and Specialist Members in the performance of their duties and functions on an MRP. The standards should be set by an advisory committee of Chairmen and Specialist Members and reported to the Registrar, who would coordinate this activity (see also X-3).

3. The monitoring would be done by an advisory committee on quality assurance, composed of three Chairmen elected by their Chair colleagues. The Registrar would

act as Coordinator and Chairman of the committee (see also X-2). The Quality Assurance Committee would also monitor the Specialist Members' performance. The committee would meet on a regular basis.

4. Training/educational guidelines should be developed for Chairmen and Specialist Members. These should be coordinated by the Registrar, in consultation with the Chairmen and Specialist Members.

5. A quality assurance program should be in place for the MRP Department. The MRP Manager and Registrar should oversee this.

## XI. MRP CERTIFICATE IMPLEMENTATION

1. The reasons for delay in MRP Certification implementation should be identified and measures taken to minimize the factors leading to delays. (For a proposed mechanism and process see also Recommendations VII-4,5,6.)

2. Dispute resolution processes should be managed as efficiently and quickly as possible in order to reduce lengthy and costly delays in the implementation of the MRP Certificate.

3. The Panel Chairman, through the Registrar and Manager MRP, should be advised as to the Compensation Services decision made on the claim after the Certificate has been implemented to ensure that the intention of the Panel has been carried out (see also VII-8).

4. If a Chairman considers that the intention of the Panel has not been carried out, a request to the Registrar for a review of the issue should be made. The Registrar, deciding that the issue is valid, will consult with the appropriate personnel within the Compensation Services Division. This process would be subject to the normal criteria and procedures regarding clarification and reconvening (see also VII-5).

## XII. INTER-RELATIONSHIPS WITH GROUPS AND REPRESENTATIVES

Although an independent process, the MRP does not function in isolation. There are many useful interactions that are helpful to the resolution of disputes, concerns and issues with the Review Board, a variety of groups and representatives within the community of the WCB, and within the community at large. These are, for instance (within the WCB), the Appeal Division, the President of the WCB, the Compensation Services Division (including managerial review), the Medical Services Division, and the Occupational Safety and Health Division (Occupational Health Department). In the community at large, interactions take place with the worker, the employer, the Workers' Advisors, the Employers' Advisors, representatives from legal and union areas, the Ombudsman's office, the WCB Advocacy Group and the community at large.

1. Feedback/interplay from the MRP Department should be meaningful and relevant when these groups and/or representatives have been active in a case. Updating them should be routine.

2. A review should be undertaken to see what could be done to reduce the need for MRP appeals. For instance, how important is failure to medically examine the worker by the Board? Are Compensation Services assessments of medical issues adequate?

## XIII. REGISTRAR, MRP

1. The MRP process should be and be seen to be independent of the Board as much as possible. It is envisioned that the process might go through several phases of independence. Currently, initial changes have taken place in this direction. For example, the MRP Department is now a separate and distinct department not related to the Appeal Division. The department is geographically separated on site. The Registrar is an independent physician position contracted on a consultative basis, reporting to the Board of Governors. This current status should continue during the implementation of the Report's recommendations.

   A future consideration might review the advantages/disadvantages of having a completely separate entity from the WCB, including a premise separate from the WCB, and incorporating facilities for the MRP examinations within it. The Registrar would then report to the Minister of Labour and Consumer Services.

   Current trends are certainly toward Appeal bodies being independent, but remaining within the system (Board's structure).

2. There is a continuing need for a Registrar (see also XIV-11).

3. The Registrar should be an MD. There are ongoing interactions between the Registrar and the Panel Chair, Specialists and medical associations. This would include such matters as assigning the most appropriate MRP specialties, dealing with improprieties, ensuring that the Specialists lists are adequate, dealing with medical factors involved in the MRP administrative process, etc. As a result, the most appropriate qualification for a Registrar would be that of a physician.

4. There should be terms of reference/function of the Registrar, with particular reference to authority or jurisdiction of the position as in Recommendations III-1,5,6; IV-5,6,8,11; V-1,7,8; VI-1,2,6; VII-1,2,6; VIII-1; IX-1,3,5; X-2,5; and XI-4.

5. The qualifications of a Registrar should be outlined. (See Recommendation XIII-4.)

6. At this stage the appointment should be a part-time position, but with greater time than the 1-1/2 days per week currently allocated. Two days per week (or its equivalent) should be minimal. A full-time role could be easily envisioned (see XIII-4) in the not-too-distant future.

7. The appointment should have a five-year term, renewable on review.

8. The Registrar should not be a WCB employee. The Registrar should be contracted, on a consultative basis.

## XIV. MRP ADMINISTRATION

1. The Chairmen and Specialist Members should be compensated adequately. The rate should be at least at a level of office private practice. Currently, in most instances, they fall below this level. Continuance of the settlement reached through negotiation with the BCMA/WCB is appropriate. A review should be undertaken to explore options of reimbursement compensation through channels other than the WCB. The adjustments in accordance with the Board's ratio under Section 25 with regard to the Consumer Price Index should be continued.

2. There are not enough Medical Appeals Officers on staff. There should be two additional positions. Personnel increases have not kept pace with the increased volume of applications and increases in the complexity of the cases presented. During the transition to departmental status, there has been no replacement of the Senior Medical Appeals Officer since the incumbent became Manager, MRP Department.
   The managerial position should be continued and made permanent (see also XIV-11).

3. At this stage, there are enough Medical Appeals Clerks.
   At the present time, it appears that there are enough clerks within the Department. However, with more experience and once all of the workload previously handled by the Appeals Officers is divided, there may be a need for another clerk's position in the future.

4. A secretary and steno clerk/filing position should be obtained. (These are currently being appointed.)

5. Office technology is up to par. The computer equipment is new and adequate. There may be a need to upgrade training to make better use of the software and to streamline mailing lists, etc.

6. Budgetary resources should be adequate to provide, for example, meaningful statistical analysis and research activity, particularly in areas that are common and important in their impact on the process such as the chronic pain syndrome.

7. There should be departmental guidelines for travel reimbursement for the out-of-province worker. Having accepted that a bona fide dispute has been defined where the worker is living outside the province, the Board should pay for the whole journey, in advance. The WCB revised guidelines on this issue should be followed in order to retain consistency throughout the system, providing that it is recognized that there are some times within the MRP process that special circumstances have to be met. The MAOs should have discretionary authority to make decisions in these situations.

The policy in the *Rehabilitation Services & Claims Manual* should be revised to refer to the flat fee, with no dollar amount attached, which would enable periodic adjustments to this amount.

8. Delays due to insufficient resources and insufficient MAO and support staff (being applied to the processing of MRP appeals), should be corrected as soon as possible, as backlog and the number of applications continue to increase. (see Tables 3 and 4)

9. Resources should be made available for legal counsel to the Registrar.

10. It is recommended that there be an annual public report. The Registrar should prepare/be responsible for this report.

11. The position of Manager should be made permanent. There is an essential need for a Manager, MRP, to handle administrative matters, i.e., preparing budgets, documents, departmental reports and statistics, as well as overseeing staffing requirements, quality control, planning, etc. (see also XIV-2).

# SECTION 4

# FIGURES AND TABLES

Figure 1

**Schematic Organizational Chart of the Medical Review Panel Department**

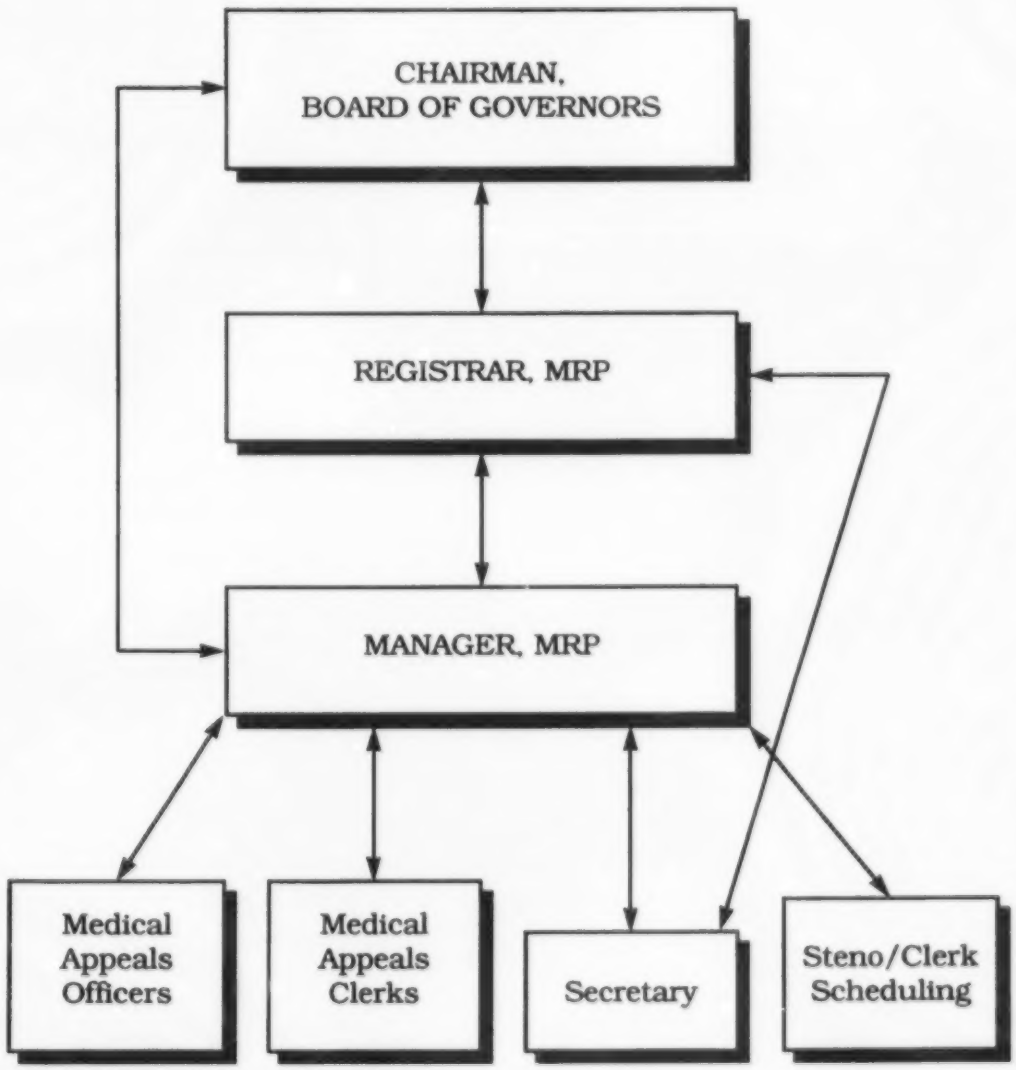


Figure 2

**Access Routes to the Medical Review Panel Appeal Process Sections 58(3)(4), 63(1)**

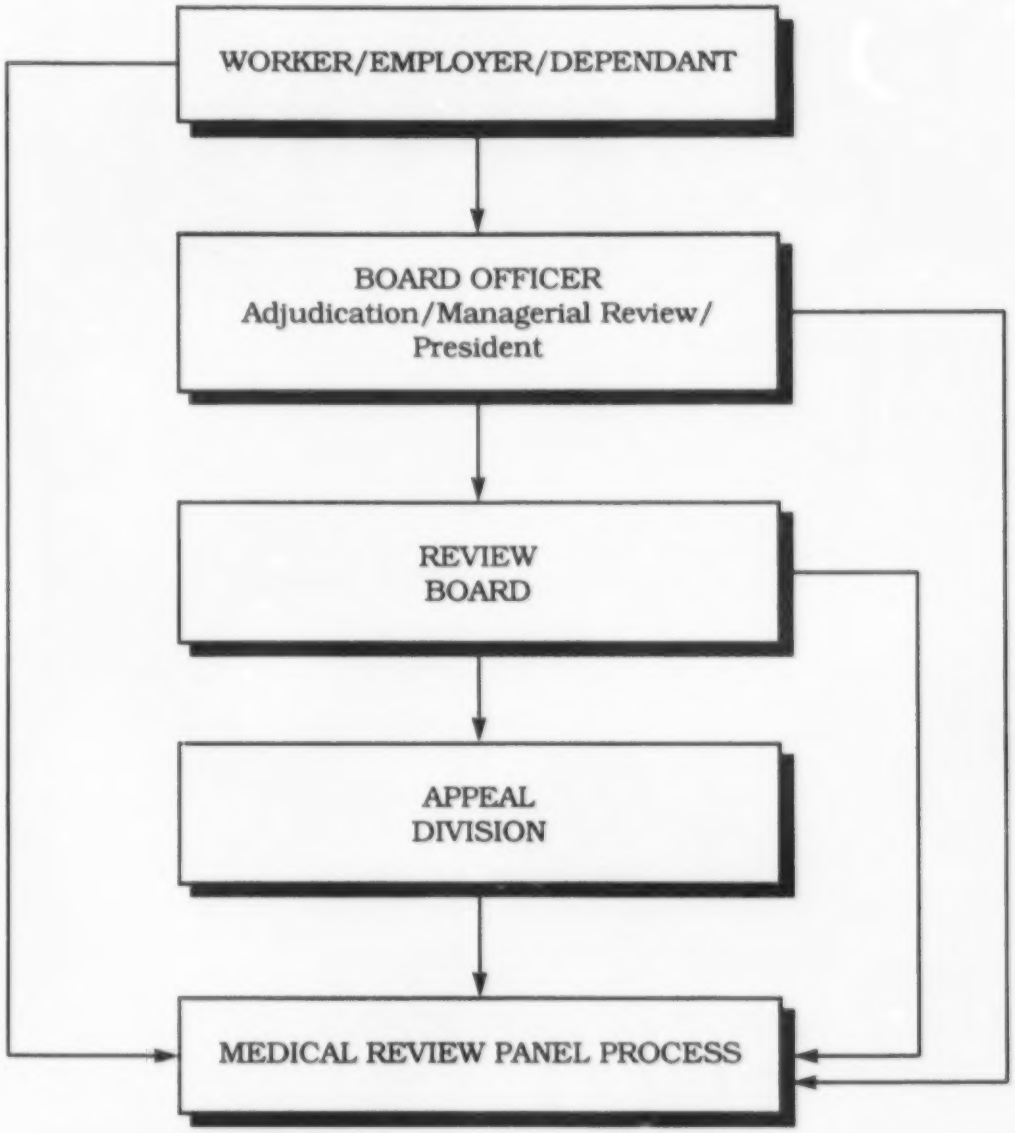


Figure 3

## Medical Review Panels: Volume and Time Flows

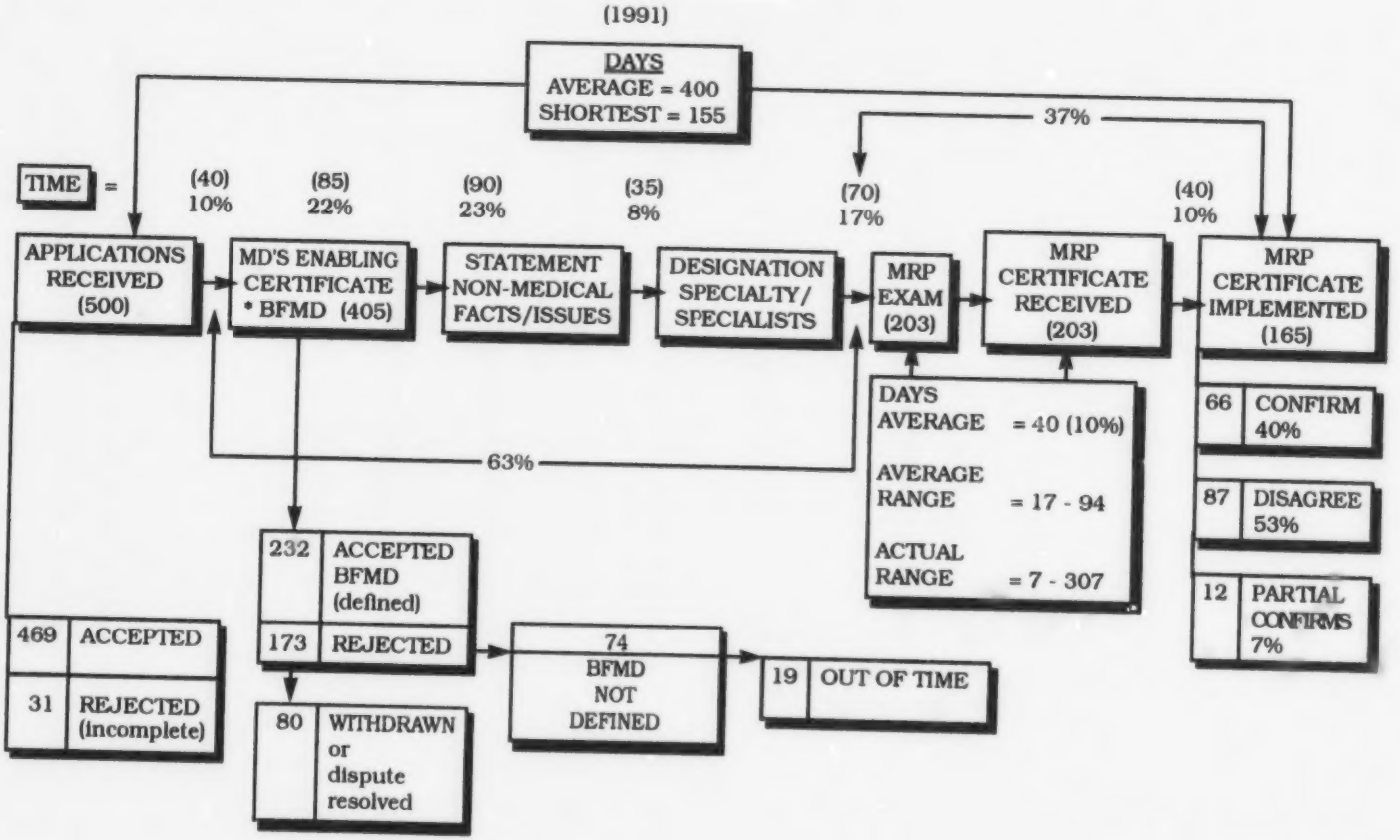


Figure 4

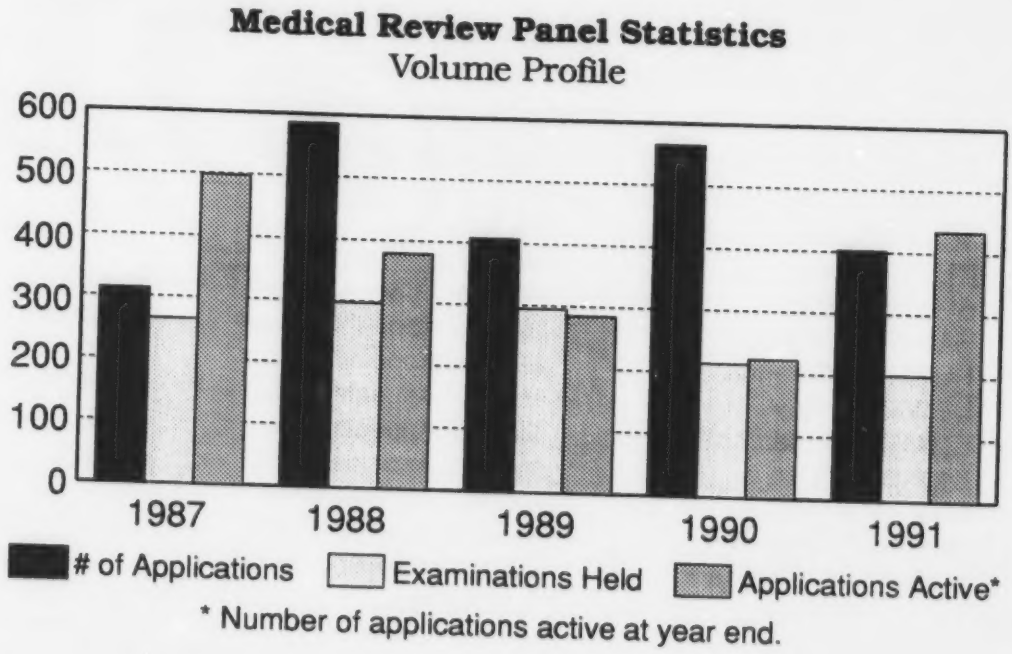
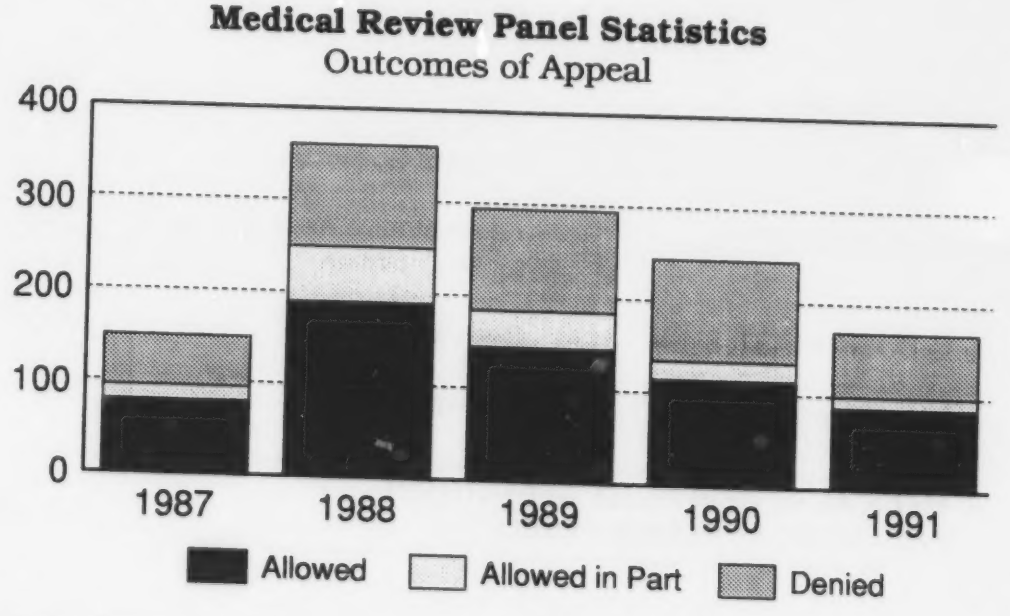



Figure 5




(Figures Courtesy of Compensation Services Division)

Table 1

## Medical Review Panel (MPR) Department

| NAME | POSITION | LOCAL |
|---|---|---|
| JENKINS, Dr. Leonard C. | Registrar | 7503 |
| OLSON, Judy | Manager | 6713 |
| BRETT, Diana | Medical Appeals Officer | 6719 |
| HARWOOD, Bev | Medical Appeals Officer | 6728 |
| HUGHES, Gwenda | Medical Appeals Officer | 6731 |
| NEWMAN, Kris | Medical Appeals Officer | 6718 |
| CHARRON, Barbara | Medical Appeals Clerk | 6721 |
| DICKSON, Lisa | Medical Appeals Clerk | 6222 |
| MYKYTIW, Faye | Medical Appeals Clerk | 6724 |
| UKRANITZ, Helen | Medical Appeals Clerk | 6736 |
| McCULLOUGH, Francine | Panel Scheduling Steno/Clerk | 6703 |
| **RESOURCE SUPPORT** | | |
| GREENE, Heather | Legal Advisor, to the Chairman, Board of Governors | 6517 |
| BOGYO, Terry | Executive Assistant, to the Chairman, Board of Governors | 3202 |
| CHAPMAN, Wilma | Administrative Assistant to the Chairman | 7548 |
| te BOEKHORST, Sylvia | Secretary | 7594 |
| HII, Helen | Secretary | 7594 |
| **MEDICAL REVIEW PANEL DEPARTMENT** | | 276-3122 |
| **FAX - MEDICAL REVIEW PANELS** | | 279-7693 |

Table 2

## Source Patterns
## For New Medical Review Panels
## Applications
## (For 12 - Month Period June 1, 1991 - May 31, 1992)

| DECISION MAKER | NUMBERS | | PERCENT (%) | |
|---|---|---|---|---|
| Appeal Division - Decision | 303 | 344 | 48.6 | 55.2 |
| Referral | 41 | | 6.6 | |
| Board Officer | 132 | | 21.2 | |
| Review Board | 85 | | 13.6 | |
| Bill 15 (Decision 3) | 62 | | 10 | |
| **TOTALS** | **623** | | **100** | |

Table 3

## Five-Year Trends in Applications

| YEAR | APPLICATIONS RECEIVED | APPLICATIONS CONSIDERED | | | | APPLICATIONS ACTIVE AT YEAR END |
|---|---|---|---|---|---|---|
| | | Accepted (BFMD) Defined | Rejected BFMD Not Defined | Out Of Time | Withdrawn or Dispute Resolved | |
| 1987 | 398 | 240 | 65 | 4 | 12 | 501 |
| 1988 | 433 | 316 | 110 | 31 | 124 | 373 |
| 1989 | 369 | 190 | 98 | 26 | 101 | 276 |
| 1990 | 397 | 221 | 129 | 23 | 81 | 234 |
| 1991 | 500 | 232 | 74 | 19 | 80 | 442 |
| **TOTAL** | **2,097** | **1,199** | **476** | **103** | **398** | |

Table 4

## MRP Applications Awaiting Consideration* and Being Processed

| STATUS | NUMBERS | PERCENT |
|---|---|---|
| Incomplete [Awaiting form(s) or file(s)] | 83 | 10 |
| Awaiting consideration by MAO ♦ | 276 | 65 |
| Applications being processed | 126 | 25 |
| **TOTALS** | **485** | **100** |

* As of June 30, 1992

♦ MAO = Medical Appeals Officer

Table 5

## Medical Review Panel Department Statistics

## Average Number of Days For Completion of Appeals

| YEAR | AVERAGE # DAYS TO COMPLETION | (=MONTHS) |
|---|---|---|
| 1985 | 884 (Shortest 557) | 29.0 |
| 1986 | 604 (Shortest 261) | 20.0 |
| 1987 | 464 (Shortest 177) | 15.0 |
| 1988 | 434 (Shortest 167) | 14.2 |
| 1989 | 319 (Shortest 145) | 10.4 |
| 1990 | 242 (Shortest 126) | 7.9 |
| 1991 | 400 (Shortest 155) | 13.1 |

Table 6

## Composition of Joint Medical Committee (1992)

| POSITION | NAME |
|---|---|
| Executive Director, BCMA | Dr. Norman Finlayson |
| Registrar, College of Physicians and Surgeons of B.C. | Dr. T. F. Handley |
| Assistant Executive Director, BCMA | Dr. Clive Thompson |

Table 7

## Specialties Available for Medical Review Panels

- Anaesthesia
- Cardiology
- Cardiovascular and Thoracic Surgery
- Dermatology
- General Practice
- General Surgery
- Gynaecology
- Immunology/Allergy
- Internal Medicine
- Nephrology
- Neurology
- Neurosurgery
- Pathology
- Physical Medicine
- Ophthalmology
- Orthopaedic Surgery
- Otolaryngology
- Plastic Surgery
- Psychiatry
- Radiology
- Respirology
- Rheumatology
- Urology
- Vascular Surgery

Table 8.1

## Frequency of Specialties Used in Medical Review Panels 1991

| SPECIALTY | NUMBERS | % |
|---|---|---|
| Orthopaedic Surgery | 149 | 73.0 |
| Neurology | 19 | 9.0 |
| Neurosurgery | 3 | 1.5 |
| Neurology and Neurosurgery | 4 | 2.0 |
| Dermatology | 1 | 0.5 |
| Respiratory Disease | 5 | 2.5 |
| Psychiatry | 9 | 5.0 |
| Psychiatry and Neurosurgery | 1 | 0.5 |
| Otolaryngology | 3 | 1.5 |
| Rheumatology | 1 | 0.5 |
| General Surgery | 4 | 2.0 |
| Internal Medicine | 3 | 1.5 |
| Physical Medicine | 1 | 0.5 |
| **TOTALS** | **203** | **100%** |

Table 8.2

## Frequency of Specialties Used in Medical Review Panels 1992*

| SPECIALTY | NUMBERS | % |
|---|---|---|
| Orthopaedic Surgery | 73 | 73 |
| Neurology | 11 | 11 |
| Neurology and Neurosurgery | 2 | 2 |
| Respiratory Disease | 4 | 4 |
| Internal Medicine | 3 | 3 |
| Plastic Surgery | 3 | 3 |
| Psychiatry | 2 | 2 |
| Cardiology | 1 | 1 |
| Otolaryngology | 1 | 1 |
| **TOTALS** | **100** | **100%** |

* From January 1 to June 30, 1992

Table 9

## Current MRP Chairmen and Dates of Appointment

| NAME | DATE OF APPOINTMENT |
|---|---|
| Dr. Nigel H. CLARK | January 30, 1975 |
| DR. S. L. SUNSHINE | January 30, 1975 |
| Dr. Victor DIRNFELD | July 13, 1978 |
| Dr. Peter J. BANKS | April 25, 1986 |
| Dr. Darryl G. MORRIS | April 25, 1986 |
| Dr. Geoffrey L. NANSON | April 25, 1986 |
| Dr. J. T. SANDY | April 25, 1986 |
| Dr. R. Cameron HARRISON | April 25, 1986 |
| Dr. Peter ALLEN | March 1, 1990 |
| Dr. Ian CONNELL | March 1, 1990 |
| Dr. Beverly BARRON | March 1, 1990 |
| Dr. R. PURKIS | March 1, 1990 |
| Dr. John SLOAN | March 1, 1990 |
| Dr. John SMITH | March 1, 1990 |

Table 10

## Disqualifying Factors For a Specialist or a Chairman on a Medical Review Panel

| | |
|---|---|
| 1.0 | Examines workers on behalf of the employer |
| 2.0 | Has treated the worker |
| 3.0 | Has acted as a Consultant in the treatment of the worker |
| 4.0 | Is a partner of, or practices medicine together with Specialist |
| 5.0 | Related |
| 6.0 | Possible perception of bias on any other ground |

Table 11

## MRP Chairmen Activities: Times Between Date of Panel and Date of Panel Certificate Received (1991)

| CHAIRMAN (CODED) | # OF PANELS | TOTAL DAYS | FASTEST PANEL | SLOWEST PANEL | AVERAGE TIME |
|---|---|---|---|---|---|
| A | 19 | 337 | 8 | 33 | 18 |
| B | 10 | 208 | 12 | 33 | 21 |
| C | 16 | 350 | 7 | 44 | 22 |
| D | 9 | 200 | 14 | 29 | 22 |
| E | 19 | 429 | 11 | 56 | 23 |
| F | 12 | 314 | 12 | 105 | 26 |
| G | 10 | 263 | 14 | 58 | 26 |
| H | 15 | 409 | 13 | 41 | 27 |
| I | 18 | 605 | 20 | 90 | 34 |
| J | 17 | 603 | 20 | 58 | 35 |
| K | 15 | 587 | 20 | 116 | 39 |
| L | 8 | 577 | 17 | 307 | 72 |
| M | 5 | 371 | 21 | 188 | 74 |
| N | 16 | 1201 | 23 | 117 | 75 |
| O | 14 | 1125 | 39 | 140 | 80 |
| **TOTALS** | **203** | **7,479** | | | |
| **AVERAGES (AVG. VARIATIONS)** | **14** | **498** | **(17)** | **(94)** | **40** |
| **ACTUAL VARIATIONS** | **(5 - 19)** | **(200-1201)** | **(7-39)** | **(29-307)** | **(18-80)** |

Table 12

## MRP: Five-Year Trends in Panel Certificates

| YEAR | PANEL EXAM | CERTIFICATES RECEIVED | CERTIFICATES IMPLEMENTED | DECISIONS | | |
|---|---|---|---|---|---|---|
| | | | | CONFIRM | DISAGREE | PARTIAL DISAGREE |
| 1987 | 254 | 211 | 148 | 58 | 73 | 17 |
| 1988 | 299 | 314 | 358 | 131 | 181 | 45 |
| 1989 | 297 | 290 | 291 | 114 | 143 | 34 |
| 1990 | 222 | 231 | 250 | 110 | 117 | 23 |
| 1991 | 203 | 203 | 165 | 66 (41)* | 87 (52)* | 12 (7)* |
| **TOTALS** | **1275** | **1249** | **1212** | **479 (39)*** | **602 (51)*** | **131 (10)*** |

* (Percent %)

Table 13

## Outcomes: Medical Review Panels: Five-Year Trends

| NEW APPLICATIONS | | APPLICATIONS CONSIDERED | | | | DECISIONS | | |
|---|---|---|---|---|---|---|---|---|
| YEAR | NUMBERS | BFMD ACCEPTED (DEFINED) | BFMD REJECTED (NOT DEFINED) | OUT OF TIME | WITHDRAWN or DISPUTE RESOLVED | UPHOLDS WCB | DISAGREES WITH WCB | PARTIALLY UPHOLDS |
| 1987 | 398 | 240 | 65 | 4 | 12 | 58 | 73 | 17 |
| 1988 | 433 | 316 | 110 | 31 | 124 | 131 | 182 | 45 |
| 1989 | 369 | 190 | 98 | 26 | 101 | 114 | 143 | 34 |
| 1990 | 397 | 221 | 129 | 23 | 81 | 110 | 117 | 23 |
| 1991 | 500 | 232 | 74 | 19 | 80 | 66 (41)* | 87 (52)* | 12(7)* |
| **TOTALS** | **2,097** | **1,199** | **476** | **103** | **398** | **479 (39)*** | **602 (51)*** | **131 (10)*** |

* (% Percent)

Table 14

## Chairmen, MRP Decisions: Five-Year Trends

| Chairman (Code) | Certificates Received 1987 to Feb.1992 | Does Not Confirm Board Decision | Confirms Board Decision | Partial Confirms Board Decision | % of Total Panels Which Did Not Confirm Board Decision |
|---|---|---|---|---|---|
| M | 10 | 3 | 7 | 0 | 30.00% |
| P | 9 | 3 | 5 | 1 | 33.33% |
| O | 114 | 39 | 61 | 14 | 34.21% |
| G | 46 | 18 | 22 | 6 | 39.13% |
| L | 138 | 57 | 64 | 17 | 41.30% |
| E | 108 | 45 | 53 | 10 | 41.67% |
| F | 122 | 56 | 50 | 16 | 45.90% |
| K | 23 | 11 | 10 | 2 | 47.83% |
| C | 22 | 11 | 9 | 2 | 50.00% |
| Q | 89 | 47 | 35 | 7 | 52.81% |
| H | 95 | 52 | 30 | 13 | 54.74% |
| I | 111 | 61 | 35 | 15 | 54.95% |
| A | 95 | 53 | 32 | 10 | 55.79% |
| J | 123 | 70 | 41 | 12 | 56.91% |
| N | 99 | 60 | 29 | 10 | 60.61% |
| D | 12 | 9 | 3 | 0 | 75.00% |
| B | 13 | 10 | 3 | 0 | 76.92% |
| **TOTALS** | **1,229** | **605** | **489** | **135** | **50.06%** |

Table 15

## 1992 Estimated (Projected) Costs per MRP Panel

| OPERATIONAL BUDGET PANEL | | TOTALS | COST PER |
|---|---|---|---|
| * **MRP DEPARTMENT** | | $585,250 | $2,883 |
| Salaries/Payroll | $518,000 | | |
| Supplies & Stationery | 3,800 | | |
| Communications | 1,350 | | |
| Equipment | 50,000 | | |
| Publications & Advertising | 10,000 | | |
| Other | 2,100 | | |
| ♦ Medical Aid | | $461,337 | $2,272 |
| **TOTAL** | | **$1,046,587** | |
| **APPLICATIONS RECEIVED** | | **500** | **$2,093** |
| **MRP Held (Implemented)** | | **203** | **$5,145** |

* 1992 - Projected on basis of January 1 - May 31, 1992

♦ 1991 - Medical Aid component = Chairmen and Specialist Members MRP